

BOSTON GROUNDWATER TRUST (BGwT)
BOARD MEETING
August 23, 2005
The Lenox Hotel – Patriot Room

The meeting of the Board of Trustees of the Boston Groundwater Trust was called order at 4:06pm in the Copley Room at The Lenox Hotel. The meeting notice was posted at City Hall in accordance with provision of the Commonwealth's Open Meeting Law.

Trustees in attendance, comprising a quorum, were:

Mr. Tim Mitchell, Neighborhood Association of the Back Bay
Mr. Gary Saunders, Boston Back Bay Association
Mr. Peter Sherin, Greater Boston Chamber of Commerce
Mr. Paul Chan, Greater Boston Real Estate Board
Mr. Galen Gilbert, Fenway Community Development Corp.

Also present were:

Elliott Laffer, BGwT Executive Director; Christian Simonelli, BGwT Technical Coordinator; Mike Paster, BGwT Technical Committee; Nancy Grilk, City of Boston; Ann Donner, Strategic Planning Consultant

1. Adoption of the minutes of the July 19, 2005 Meeting

Minutes were distributed to board members for review. Trustee Gilbert noted that the July 19, 2005 minutes looked good and everything seemed in order.

Trustee Gilbert moved to adopt the minutes. Trustee Chan seconded the motion.

Voted: To accept the minutes of the July 19, 2005 meeting as corrected

2. Revisions to Declaration of Trust Dissolution Section

Mr. Laffer presented the proposed revision to the Declaration of Trust Dissolution Section.

Proposed Motion

To remove the first paragraph of Section 5.1, entitled "Dissolution and Amendment of Trust", of the Declaration of Trust as amended June 16, 2005, and replace it with the following:

Upon dissolution of the Trust, all assets of the Trust shall be distributed for one or more exempt purposes within the meaning of Section 501(c)3 of the Code or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not disposed of shall be disposed of by the Probate and Family Division of Trial Court of the county in which the principal office of the Trust is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

Discussion followed..

Trustee Gilbert moved that the BGwT adopt the proposed revision to the Declaration of Trust Dissolution Section presented by Mr. Laffer, Trustee Sherin seconded the motion.

VOTED: To adopt the proposed revision to the Declaration of Trust Dissolution Section.

3. Conflict of interest By-Laws section

Mr. Laffer presented the revisions and comments made to conflict of interest BY-Laws section. Discussion followed. The proposed conflict of interest by-law is attached at the end of these minutes.

Trustee Gilbert motioned to table this item until the next board meeting at which time it will be voted on. Trustee Chan seconded the motion.

VOTED: To table this item until the next board meeting at which time it will be voted on.

4. Strategic Planning

Mr. Laffer introduced Ann Donner, who has been hired as a consultant to advise the Trust in its strategic planning process. Ms. Donner discussed her ideas for the process. Discussion followed.

Ms. Donner will meet individually with the Trustees and other critical BGwT participants and constituents. A tentative meeting strategic planning session has been set for Thursday October 20, 2005 from 12pm-6pm. A strategic plan should be ready for adoption by the Trustees at their meeting in November.

5. Finance Report

Trustee Sherin reviewed the BGwT *Financial Report 7/20/05-8/23/05*. Discussion followed.

6. Executive Director's Report

BGwT Executive Director Mr. Elliott Laffer distributed his report and reviewed his activities of the past month. Refer to the attached *Executive Director's Report: August 23, 2005*, for a complete list of all activities.

7. Technical Coordinator's Report

BGwT Technical Coordinator Mr. Christian Simonelli distributed and presented his activities of the past month. Discussion followed. Refer to the attached *Technical Coordinator's Well Monitoring & Installation Report BGwT Meeting: August 23, 2005* for a complete list of what was distributed and presented.

The meeting adjourned at 5:46 p.m.

NEXT MEETING: Monday September 12, 2005 @ 4:00pm in the Lenox Hotel.

Submitted by Christian Simonelli, BGwT Technical Coordinator, on 08/25/05

Proposed Conflict of Interest Policy

Prohibited Actions:

No Trustee shall:

1. Knowingly, act serve as an attorney, architect, engineer, accountant, corporate officer or trustee, or in any other professional capacity for any client concerning a cause of action relating to damage to wood pile building foundations caused by lowered groundwater in Boston unless they have received the approval of the Mayor of Boston, who is the appointing authority..
2. Act as an expert witness in any litigation or adjudication concerning damage to wood pile building foundations caused by lowered groundwater without permission from the Trust.
3. Have a financial interest in any contract with the Trust.
4. Accept a fee for trying to influence legislation or administrative rule making concerning damage to wood pile building foundations caused by lowered groundwater.
5. Be an owner of real estate being developed in the City of Boston, unless the project is in full compliance with all City requirements about the installation, use, and disposition of groundwater observation wells or unless there is a good faith dispute between the owner and City about this subject.
6. Be a property owner or manager in the City of Boston, unless in full compliance with all legal requirements about pumping groundwater into public sewers or storm drains or otherwise removing groundwater from property or unless there is a good faith dispute between the owner and any public agency about this subject.

Reportable Situations:

If a Trustee is involved in any of the following events, that Trustee must make a written report thereof to the Trust. The Trust Secretary shall keep such reports in the permanent records of the trust, available to anyone who wants to see such reports.

1. Having an ownership interest in any real estate in Boston where the wood pile building foundations are damaged by lowered groundwater.
2. Having an ownership interest in any real estate in Boston that will benefit directly from any facility or improvement discussed at a Trust meeting, such as a recharging program, or located near a trust owned facility, such as an observation well.
3. Being a party to any litigation concerning Boston groundwater. in which an opposing lawyer is representing the City of Boston, the Commonwealth of Massachusetts, or the United States of America, or any instrumentality or division thereof.
4. As an attorney, representing anyone with a lawsuit in which an opposing lawyer is representing the City of Boston, the Commonwealth of Massachusetts, or the United States of America, or any instrumentality or division thereof. In such cases the disclosure does not have to identify the client.
5. Any dispute between a trustee as owner of property in the City of Boston about compliance with all City requirements about the installation, use, and disposition of groundwater observation wells, shall be reported to the Trust.
6. Any dispute between involving a trustee acting as a property owner or manager in the City of Boston or acting in a professional capacity as an engineer, architect, accountant, or attorney, about full compliance with all legal requirements about pumping groundwater

into public storm sewers or drains or otherwise removing groundwater from property, shall be reported to the Trust.

Nothing in the Article supersedes the requirements of the state conflict of interest law as it applies to Trustees, M.G.L. ch. 268A.

EXECUTIVE DIRECTOR'S REPORT

August 23, 2005

1. **City Council Hearing** – There will be a hearing of the Council's Committee on Environment and Historic Preservation, chaired by Councilor Kelly, on groundwater issues. The hearing will take place in the Rabb Lecture Hall at the Boston Public Library on Tuesday, Sept. 6, at 5:15. It is in response to two orders on the topic, one filed by Councilors Kelly, Ross, and McDermott for a discussion of many issues surrounding the general topic, and one filed by Councilor Murphy that is focused on establishing an organizational structure to deal with groundwater.
2. **St. Charles St.** – Based on a concept offered by Jim Lambrechts, several students at Wentworth developed a potential plan for solving the groundwater problem around St. Charles Street as a senior project. The plan essentially involves building an underground wall around the blocks that would keep groundwater in; this is likely to be far less expensive and disruptive than repair of the leak under the tracks. The presentation was very solid; and the students will be presenting a modified version, tailored to the audience, to public officials on Friday, August 26, at 10:00AM at Wentworth. Among committed attendees are delegations from the MBTA and BWSC, as well as Jim Hunt, DPW Commissioner Casazza, Councilor Kelly, Rep. Rushing, and aides to Speaker DiMasi and Senator Wilkerson. I was particularly encouraged that T General Manager Dan Grabauskas said in his reply to the invitation that he looked forward to working together on a long term solution.
3. **Ad-Hoc City-State Committee** – Andrew Gottlieb and Jim Hunt convened a meeting of the committee that included representatives of the MBTA, the MTA, DCR, BRA, BWSC, and BGwT, Reps. Rushing and Walz and an aide to Sen. Wilkerson, as well as public attendees from CWRA and Citywide GET. There was a commitment that this would be a true working group with assigned tasks to be completed by the next meeting in September.
4. **Strategic Planning** – We have signed a contract with Ann Donner to help us with our strategic planning process. She plans interviews starting this week with trustees and key constituencies. We hope to have a meeting to discuss findings and reach agreement in late September, with a report in October.
5. **Website** – Traffic to the website remains relatively heavy. We are about to begin the testing stage for our updated site that will allow access to well data directly from the map. It is much easier to use than our current system. We will also be able to upload readings directly to the site, eliminating much of the current manual work. The new site will hopefully be fully operational by October.
6. **Zoning** – Jim Hunt hosted a meeting that included BGwT, Citywide GET, and NABB, as well as BRA and BWSC, to discuss potential ways to accomplish what NABB had hoped to achieve with a zoning overlay district. While there was much positive in the discussions, final resolution was not reached.
7. **Speaker DiMasi** – I met with Aaron Michlewitz, a constituent services aide to the Speaker, to go over the groundwater issue and the role of the Trust.
8. **Silver Line Phase III** – I spoke before a meeting of the Back Bay Association on the issues involved in the MBTA's Silver Line Phase III project. At the start of that meeting,

Andrew Brennan of the T announced that General Manager Grabauskas had said that the Columbus Avenue portal did not seem to meet the requirements of the T.

9. **Comment Letters** – I filed comment letters on 1330 Boylston St, 601-603 Albany St, and Silver Line Phase III. All letters are posted on the website.
10. **501(c)3** – We received a letter from the IRS that seems to indicate that the last obstacle is changing the dissolution language in the Declaration of Trust. They understand they will hear back from us as soon as the new language is adopted.
11. **Funding** – The \$50,000 from the State for capital projects has been received by the City and has been approved for issuance to the Trust. We should have the money imminently.
12. **Level Logging Equipment** – The equipment we received would not fit in our wells. The vendor has accepted it back and offered a more expensive solution that will fit. We are now evaluating that and also looking for other possible solutions. We will move on this shortly.
13. **Health and Safety Policy** – The Technical Advisory Committee is reviewing the draft policy. I hope to have something for the Board to adopt at the next meeting.
14. **News Coverage** – In addition to much mention of groundwater in articles about the Silver Line Phase III, there were pieces in the Boston Courant and South End News, both of which are posted on the website.

TECHNICAL COORDINATOR'S REPORT

WELL MONITORING

Most recent set of readings were made in July/August, 2005
Of the 562 o.w.'s in the network:

- 101 Wells @ Elevation >7'
- 238 Wells @ Elevation 5'- 7'
- 164 Wells @ Elevation 3'-5'
- 35 Wells @ Elevation <3'
- 24 Wells @ No Reading

DATABASE

Met with Jessica Baker and Elliott Laffer to review and comment on beta version of new map and website.

INSTALLATIONS

Have installed 92 of current 114 o.w.'s to be installed.

Pre-marked first group of 55 o.w.'s to be installed as part of next 180 o.w. contract.